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5  
6 Attorney for Debtor

7  
8 IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA

9 In re: )  
10 BRIAN K. BISSELL AND ) No. 4:12-bk-00034-EWH  
TRACY L. BISSELL, )  
11 ) (Chapter 11)  
Debtors. ) DEBTORS' FIRST PLAN OF  
12 ) REORGANIZATION DATED  
13 ) May 10, 2012

14 Brian K. Bissell and Tracy L. Bissell, (hereinafter "Debtors"), hereby submit this Plan of  
15 Reorganization in accordance with 11 U.S.C. §1121(a).

16 **I. DEFINITIONS**

17 As utilized in this Plan of Reorganization (hereinafter "Plan") and in the Disclosure Statement  
18 (hereinafter "Disclosure Statement") which accompanies this Plan of Reorganization, the following  
19 definitions apply to the following terms:

20 1. "Adequate information" means information that would enable a hypothetical reasonable  
21 investor typical of holders of claims or interest of the Debtors' estate, to make an informed judgment  
22 about the Debtors' Plan of Reorganization.

23 2. "Allowed and Approved Claim" shall mean a timely filed Proof of Claim pursuant to an  
24 Order from the Court setting a bar date to which that claim should be filed and no objection to the  
25 claim having been filed. If an objection to a claim is filed, said claim will be allowed to the extent  
26 ordered by the Court.

27 3. "Bankruptcy Code" shall mean the Bankruptcy Code as set forth in Title 11 of the United  
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1 States Code.

2 4. "Bankruptcy Court" shall mean the United States Bankruptcy Court for the District of  
3 Arizona.

4 5. "Confirmation of the Plan" shall mean the entry of an order by the Bankruptcy Court  
5 confirming the Plan or Reorganization in accordance with §1129 of the Bankruptcy Code.

6 6. "Consummation of the Plan" means the accomplishment of all things required or provided  
7 for under the terms of the Plan.

8 7. "Court" shall mean the United States Bankruptcy Court for the District of Arizona.

9 8. "Creditors" shall mean all persons holding claims for secured and unsecured obligations,  
10 liabilities, demands or claims of any nature whatsoever against the Debtor arising at any time prior to  
11 confirmation of the Plan and administrative creditors.

12 9. "Debtors" shall mean the petitioner in the above-captioned Bankruptcy case.

13 10. "Disclosure Statement" shall mean this Disclosure Statement (hereinafter "Disclosure  
14 Statement") filed in this case approved, after notice and a hearing by the Court as being in conformity  
15 with §1125 of the Bankruptcy Code.

16 11. "Effective Date" shall mean the later of (a) the first business day following the 60th day  
17 after entry of the Court of an order confirming this Plan, or (b) the first business day after such order  
18 has become final and unappealable; provided however, no appeal of said order is pending; provided  
19 further, the Debtor may waive the condition that no appeal of the order of confirmation be pending by  
20 a writing duly executed by the Debtor and filed with the Court on or before the date which but for the  
21 pendency of appeal would become the effective date of the Plan, and in the event that said condition  
22 is timely waived by the Debtor, the Plan shall become effective as provided herein notwithstanding  
23 the pendency on said date of an appeal or appeals; in the event that said condition is not timely  
24 waived, the Plan shall become effective on the first business day after an appeal is no longer pending.

25 12. "Petition" means the original Chapter 11 Petition filed by the Debtor.

26 13. "Plan" shall mean the Plan of Reorganization accompanying the Disclosure Statement as it  
27 may be amended, modified and/or supplemented pursuant to which the Debtors propose payment in  
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1 whole or in part of creditors' claims.

2 14. "Plan distribution date" shall be a date that ends with the first full calendar quarter after  
3 the date that the Chapter 11 Plan is confirmed by the Court, which the Debtors project to be  
4 September, 2012.

5 15. All other terms not specifically defined by this Disclosure Statement shall have the  
6 meaning as designated in §101 of the Bankruptcy Code or, if not contained therein, their ordinary  
7 meaning.

## 8 **II. CLASSES OF CLAIMS**

### 9 **Administrative Claims.**

10 These claims consist of the expenses of administration of the estate including attorney's fees  
11 for Debtors' counsel and any unpaid fees to the U.S. Trustee. The Debtor estimates these costs and  
12 expenses may be in excess of \$15,000.00.

### 13 **Tax Claims.**

14 As reflected in the original schedules filed by the Debtor, Debtor estimated tax claims in the  
15 amount of \$50,836.00. This does not include any amounts that may be due for ad valorem claims which  
16 are secured against real property, if any.

### 17 **Secured Claims.**

18 As reflected in the original schedules filed by the Debtor, Debtor estimated secured claims in the  
19 amount of \$662,000.00.

### 20 **Unsecured Claims.**

21 As reflected in the schedules filed by the Debtor, Debtor estimated unsecured claims in the  
22 amount of \$21,200.00, which does not include any deficiency amounts for secured creditors.

### 23 **Domestic Support Claims.**

24 As reflected in the schedules filed by the Debtors, there are no support orders against the Debtors.

## 25 **III. TREATMENT OF CLAIMS NOT IMPAIRED UNDER THE PLAN**

26 Classes 1, 6 and 10 are not impaired under the Plan in that the Plan does not alter the legal or  
27 contractual rights to which the holders of such claims are entitled and/or the Bankruptcy Code permits  
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1 payment over an extended period of time and/or the holder of the claim has agreed to a different  
2 treatment.

#### 3 IV. TREATMENT OF IMPAIRED CLAIMS UNDER THE PLAN

4 Classes 2, 3, 4, 5, 7, 8, and 9 are impaired under the Plan in that the Plan does alter the legal or  
5 contractual rights to which the holders of such claims are entitled and/or the Bankruptcy Code permits  
6 payments over an extended period of time and/or the holder of the claims has agreed to a different  
7 treatment.

#### 8 V. CLASSES OF CLAIMS

9 The Plan provides for 10 classes of claims to be paid or administered in the following manner:

##### 10 5.1 Class 1 - Administrative Claims.

11 These claims are for the expenses of administration of the estate, including attorney fees for  
12 Debtors' counsel in the approximate sum of \$15,000.00 and unpaid fees to the U.S. Trustee, if any.  
13 Debtors believe, at the time that the Debtor's Chapter 11 Plan is confirmed, that there will be an  
14 administrative expense claim in the approximate amount of \$15,000.00. This claim shall be paid in  
15 cash, or in the amounts allowed by the Court upon the Plan distribution date unless otherwise agreed  
16 to between the Debtors and the administrative creditor. **(This class is not impaired.)**

##### 17 5.2 Class 2 - Priority Claims of Governmental Units.

18 A. Classification: Class 2 claims consists of all allowed claims of the United  
19 States Internal Revenue Service ("IRS") and/or State of Arizona, Department of Revenue  
20 ("AZDOR") and/or the Department of Economic Security ("ADES"), City of Tucson or other  
21 government agency which are entitled to priority pursuant to Section 507(a)(8) of the Bankruptcy  
22 Code except ad valorem taxes. Debtors are aware of a proof of claim filed in this class by IRS in the  
23 amount of \$78,258.13 and a proof of claim filed by AZDOR in the amount of \$4,752.98.

24 B. Impairment: Class 2 is impaired.

25 C. Treatment: Each holder of a Class 2 allowed claim shall retain its claim, in  
26 accordance with Section 1129 of the Bankruptcy Code. The claim shall bear simple interest at a fixed  
27 rate equal to that rate which would be required to be paid as of the Effective Date under Section 6621

1 and/or 6622 of the Internal Revenue Code, or such other interest rate as the Bankruptcy Court  
2 determines is sufficient to confer upon the tax note a value as of the Effective Date equal to the  
3 principal amount of such claim. The allowed claim shall be payable in equal monthly installments of  
4 principal, along with accrued interest, in deferred cash payments over a period not to exceed five  
5 years from the date of petition. The first payment shall commence on the first day of the month  
6 immediately following the month of the Effective Date. The claim is subject to prepayment at any  
7 time without penalty or premium and shall have such other terms as are required by law.

8 5.3 Class 3 - Secured Ad Valorem Real Property Tax Claims

9 A. Classification: Class 3 shall consist of pre-petition allowed Ad Valorem Real  
10 Property Tax Claims which are secured by liens on real property. The Debtors believe there are no  
11 claims in this class. If there are allowed claims in this class, they will be treated and paid as follows:

12 B. Impairment: Class 3 is impaired.

13 C. Treatment: Each holder of a Class 3 allowed claim shall retain its lien having  
14 an aggregate principal amount sufficient to satisfy, in accordance with Section 1129 of the  
15 Bankruptcy Code, the allowed claim. Such claim shall bear simple interest at a statutory rate of 16%  
16 per annum required to be paid as of the Effective Date, or such other interest rate as the Bankruptcy  
17 Court determines is sufficient to confer upon the tax claim a value as of the Effective Date equal to  
18 the principal amount of such claim charged by Pima County or the statutory rate of interest.  
19 Payments shall be made in equal monthly installments of principal, along with accrued interest, in  
20 deferred cash payments over a period not to exceed five years from date of petition. The claim is  
21 subject to prepayment at any time without penalty or premium and shall have such other terms as are  
22 required by law.

23 5.4 Class 4 - Secured Claim of Citimortgage, Inc. ("Citi")

24 A. Classification: Class 4 consists of the first lien claim of Citi secured by the real  
25 property located at 2330 N. Tanque Verde Place, Tucson, AZ 85749, the Debtors' principal residence.  
26 This claim is evidenced by a promissory note and deed of trust. Debtors estimate the claim in this  
27 class at \$463,900.00.

1 B. Impairment: Class 4 is impaired.

2 C. Treatment: Debtors will continue to pay pursuant to the existing mortgage  
3 contract. Arrears, if any, will be paid in sixty (60) equal monthly installments beginning 30 days after  
4 the Effective Date of the Plan.

5 5.5 Class 5 - Second Lien Claim of GMAC Mortgage, LLC ("GMAC")

6 A. Classification: Class 5 consists of the allowed second lien claim of GMAC to  
7 the extent of the value of the secured creditor's interest in the Debtors' interest in the real property  
8 located at 2330 N. Tanque Verde Place, Tucson, AZ 85749, the Debtors' principal residence. This  
9 claim is evidenced by a promissory note and deed of trust. Debtors are aware of a proof of claim filed  
10 in this class in the amount of \$141,195.74. Debtors believe this claim is wholly unsecured.

11 B. Impairment: Class 5 is impaired.

12 C. Treatment: The Debtors and the Class 5 creditor have Stipulated to the  
13 following treatment, entered as an Order of this Court on April 16, 2012.

14 i. GMAC's claim shall be allowed as a non-priority general unsecured claim;

15 ii. The avoidance of GMAC's Second Deed of Trust is contingent upon the  
16 Debtors' completion of their Chapter 11 Plan and the Debtors' receipt of a  
17 Chapter 11 discharge;

18 iii. Upon receipt of the Debtors' Chapter 11 discharge and completion of their  
19 Chapter 11 Plan, this Stipulation and Order thereon may be recorded by the  
20 Debtors with the County Recorder's Office;

21 iv. GMAC shall retain its lien for the full amount due under the Subject Loan in  
22 the event of either the dismissal of the Debtors' Chapter 11 case or the  
23 conversion of the Debtors' Chapter 11 case to any other Chapter under the  
24 United States Bankruptcy Code;

25 v. In the event that the holder of the first lien on the Subject Property forecloses  
26 on its security interest and extinguishes GMAC's Second Deed of Trust prior  
27 to the Debtors' completion of their Chapter 11 Plan and receipt of a Chapter 11  
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1 discharge, GMAC's lien shall attach to the surplus proceeds of the foreclosure  
2 sale for the full amount of the Subject Loan balance at the time of the sale;

3 vi. The execution of the Stipulation constitutes a vote by GMAC of its claim in  
4 favor of Debtors' Plan; and

5 vii. GMAC's attorney's fees incurred incident to the action may be added to  
6 GMAC's unsecured claim.

7 5.6 Class 6 - Secured Claim of Nissan-Infinity LT ("Nissan")

8 A. Classification: Class 6 consists of the allowed secured claim of Nissan to the  
9 extent of the value of the secured creditor's interest in the Debtors' interest in the personal property  
10 known as a 2010 Infinity G37 Sedan. This claim is evidenced by a lease agreement. Debtors are  
11 aware of a proof of claim filed in this class in the amount of \$12,224.96.

12 B. Impairment: Class 6 is not impaired.

13 C. Treatment: The Class 6 claim will continue to be paid pursuant to the existing  
14 lease agreement.

15 5.7 Class 7 - Secured Claim of Tucson Federal Credit Union ("TFCU")

16 A. Classification: Class 7 consists of the allowed secured claim of TFCU to the  
17 extent of the value of the secured creditor's interest in the Debtors' interest in the personal property  
18 known as a 2010 Chevrolet Silverado 2500 Crew Cab pickup. This claim is evidenced by a security  
19 agreement. Debtors are aware of a proof of claim filed in this class in the amount of \$40,837.73.  
20 Debtors believe the current market value of the property is \$26,000.00. Debtors believe this claim  
21 may not be fully secured.

22 B. Impairment: Class 7 is impaired.

23 C. Treatment: The Class 7 creditor will be paid the current market value of its  
24 allowed secured claim in 60 equal monthly installments at four and a half percent (4.5%) interest  
25 beginning 60 days after the Effective Date. Any deficiency claim of the Class 9 creditor shall be  
26 treated as a Class 10 unsecured claim and paid pro-rata from Debtors' disposable income.

27 5.8 Class 8 - Unsecured Deficiency Claims and Unsecured Claims.

1           A.     Classification: Class 8 consists of all unsecured deficiency claims and  
2 unsecured claims against the debtor. Debtor estimates these claims at approximately \$175,000.00.

3           B.     Impairment: Class 8 is impaired.

4           C.     Treatment: All allowed and approved claims under this Class shall be paid the  
5 sum of \$450.00 on a quarterly basis, *pro rata*, from Debtors disposable income, to be paid on the last  
6 day of each quarter, beginning with the quarter ending after the Effective Date and anticipated to be  
7 December 2012, and continuing each quarter thereafter until the quarter ending September 30,  
8 2017. Any liens held by the Class 8 creditors shall be null and void and removed as of the Effective  
9 Date.

10           5.9 Class 9 - Contingent, Unliquidated and Disputed Claims.

11           A.     Classification: Class 9 consists of all contingent, unliquidated and disputed  
12 claims.

13           B.     Impairment: Class 9 is impaired.

14           C.     Treatment: Class 9 creditors shall receive no distribution under the Plan.

15           5.10 Class 10 - Debtors' Interest.

16           A.     Classification: Class 10 consists of the interests of the debtors.

17           B.     Impairment: Class 10 is not impaired.

18           C.     Treatment: Debtors shall retain all of their legal and equitable interest in  
19 exempt and non-exempt assets of this estate, as all reconciliation issues have been met. All estate  
20 property shall vest in the Debtors at confirmation.

21                           **VI. DISPUTED CLAIMS**

22           Debtors reserve the right to verify and object to any proof of claim. Payment of disputed  
23 claims shall be made only after agreement has been reached between the Debtors and the Creditor or  
24 upon the order of the Court. Any and all objections to proofs of claim will be filed within sixty (60)  
25 days of the Effective Date of this plan or will be waived.

26                           **VII. EXECUTORY CONTRACTS**

27           The Debtors are assuming a vehicle lease with Nissan-Infinity LT.  
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1 **VIII. DOMESTIC SUPPORT OBLIGATIONS**

2 As reflected in the schedules filed by the Debtors, there are no domestic support orders against  
3 the Debtors.

4 **IX. MEANS OF EXECUTION/PROJECTION**

5 \_\_\_\_\_The Debtors will provide for payment of all timely filed and allowed claims over 60 months.  
6 The Debtors shall make payments in the sum of \$450.00 per quarter to the Class 8 unsecured  
7 creditors, which shall be disbursed as set forth in the Plan. The source of the funds shall come from  
8 the Debtors' earned post-petition income and possibly from the refinancing or sale of property of the  
9 debtor. *See 11 U.S.C. §1123(a)(8).*

10 The 2005 BAPCPA amendments to the Bankruptcy Code added, among other things, section  
11 1129(a)(15). This section requires that upon the objection of an unsecured creditor to the debtor's  
12 plan, the debtor must either (A) pay the claim in full, or, (B) commit their disposable income to the  
13 plan payments for a minimum of 5 years, as determined by §1325(b)(2). Although Debtors believe  
14 that projected disposable income is committed to the plan under the current projections, upon an  
15 objection to plan confirmation, Debtors will provide a schedule reflecting that projected disposable  
16 income has been committed to plan payments.

17 The Debtors reserve the right to accelerate payment under the Plan from financing obtained  
18 from third party financing, although currently Debtors have no plans to do so. Debtors believe that  
19 by virtue of the Plan they will have the ability to pay all allowed and approved claims pursuant to the  
20 Plan or Reorganization. The unsecured creditors will be paid a total of \$9,000.00 under the Plan of  
21 Reorganization.

22 **X. QUARTERLY FEES AND REPORTS**

23 Debtors shall continue to pay quarterly fees to the U.S. Trustee System until such time as a  
24 Final Decree has been entered in this matter by the Court, closing this Chapter 11 proceeding.  
25 Debtor shall continue to file monthly operating reports until such time as the Court enters an Order  
26 confirming this Chapter 11 Plan of Reorganization and/or the end of the calendar quarter in which  
27 the Plan was confirmed. At such time, Debtor shall cease filing monthly operating reports and shall  
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1 begin filing quarterly post confirmation reports. These quarterly reports shall be filed until such time  
2 as a Final Decree has been entered in this matter by the Court, closing this Chapter 11 proceeding.

### 3 **XI. IMPLEMENTATION AND CONSUMMATION OF PLAN**

4 The terms of the Plan subsequent to confirmation shall bind the Debtors, any entity acquiring  
5 property under the Plan, and creditor or claimant, whether or not such creditor or claimant has  
6 accepted the Plan. All property of the estate shall vest in the Debtors and shall be free from  
7 attachment, levy, garnishment or execution by creditors bound by the Plan.

8 Subsequent to confirmation of the Plan of Reorganization, the Debtors shall continue to  
9 engage in their business as presently conducted or in such form or manner as the Debtors may deem  
10 advisable. The Plan does not provide for the liquidation of all or substantially all of the property of  
11 the estate. Notwithstanding the foregoing, however, the Debtors shall be free to operate in the  
12 ordinary course and may without any further order of the Court, convey, sell assign, purchase, or  
13 lease any property of or for the benefit of the estate.

14 It shall be the obligation of each creditor participating under the Plan to keep the Debtors  
15 advised of its current mailing address. In the event any payments tendered to creditors are mailed,  
16 postage prepaid, addressed (1) to the address specified in the Debtors schedules and statement, (2) to  
17 the address specified in any proof of claim filed by a creditor or claimant herein, or (3) to the address  
18 provided by any such creditor or claimant for purposes of distribution, and if subsequently the Post  
19 Office returns such distribution due to lack of insufficiency of address or forwarding address, the  
20 Debtors shall retain such distribution for a period of six (6) months. Thereafter, the distribution shall  
21 revert to the Debtor without further Order of the Court and be free and clear of any claim of the  
22 named distributee. The Debtors shall thereafter not be required to mail subsequent distributions to  
23 any creditor for whom a distribution has been returned by the Post Office. The Debtors reserves the  
24 right to modify the Plan in accordance with §1127 of the Bankruptcy Code. The Plan may be  
25 modified prior to confirmation provided that the Plan still complies with §1122 and §1123 of the  
26 Bankruptcy Code. The Plan may be modified subsequent to confirmation and before substantial  
27 consummation of the Plan under such circumstances as may warrant such under §1123 of the  
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1 Bankruptcy Code. Any holder of a claim or interest that has been previously accepted or rejected  
2 under a confirmed Plan, shall be deemed to have accepted or rejected any subsequently modified  
3 Plan unless the holder of such claim or interest changes its acceptance or rejection of the Plan within  
4 the time fixed by the Court.

## 5 **XII. DEFAULT**

6 \_\_\_\_\_The Debtors' failure to make any payment due under the Plan within sixty (60) days after  
7 demand for payment after its due date shall constitute a default unless the Debtors and the affected  
8 creditor agree to delayed payment.

9       Upon default, creditors may pursue any remedy provided by the state or federal law,  
10 including foreclosing any security interest, suing on any promissory note issued or continued in  
11 effect under the Plan.

## 12 **XIII. RETENTION OF JURISDICTION**

13 \_\_\_\_\_The Bankruptcy Court will retain jurisdiction over this case for purposes of determining the  
14 allowance of claims or objection to claims. The Court will also retain jurisdiction for purposes of  
15 fixing allowances for compensation and/or for purposes of determining the allowability of any other  
16 claimed administrative expenses. The Court will also retain jurisdiction for the purpose of  
17 establishing bar dates and making a determination with respect to all disputed claims. Finally, the  
18 Court shall retain jurisdiction for purposes of determining any dispute arising from the interpretation,  
19 implementation or consummation of the Plan and to implement and enforce the provisions of the  
20 Plan. Notwithstanding anything to the contrary contained herein, the Debtors shall not be bound by  
21 estoppel, the principles of *res judicata* or collateral estoppel with respect to any term or provision  
22 contained herein in the event the Plan is not confirmed.

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1           The Court may enter a Final Decree and retain jurisdiction over this case to reopen the case to  
2 provide relief including the entering of a Discharge Order.

3           DATED May 10, 2012

4                                   LAW OFFICES OF  
5                                   *ERIC SLOCUM SPARKS, P.C.*

6                                   /s/ Sparks AZBAR #11726  
7                                   Eric Slocum Sparks  
8                                   Attorney for Debtor

9           COPIES of the foregoing  
10           mailed/delivered/faxed on  
11           May 10, 2012 to:

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